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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/507,108 | 02/17/2000 | Mary M. Swenson | 54682 USA 6A | 7637 |

7590 05/06/2002

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EXAMINER

LEWIS, KIM M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 05/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 09/507,108 | Applicant(s) SWENSON, MARY M. | |
| | Examiner Kim M. Lewis | Art Unit 3761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input checked="" type="checkbox"/> Other: <i>Detailed Action</i> |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 3/25/02 has been received and made of record in the application file wrapper. Claims 3 and 24 have been amended as requested.

Drawings

2. The corrected or substitute drawings were received on 4/1/02. The examiner approves these drawings.

Declaration

3. The declaration under 37 CFR 1.132 filed 3/26/02 is insufficient to overcome the rejection of claims 1-9, 11-16, 18, 19, 22-27, 29-32, 34 and 35 based upon Rawlings et al. as set forth in the last Office action because: declarations filed under 1.132¹ can not be used to overcome a rejection under 35 U.S. C. 102.
4. The declaration is also insufficient to overcome the 103 rejection of claims 10, 17, 20, 21, 28 and 33 based upon Rawlings et al. in view of Ward as set forth in the last Office action because there is no nexus between the subject matter of the declaration and the subject matter of claims 10, 17, 20, 21, 28 and 33.

¹ The examiner assumes that the declaration has been filed under 37 C.F. R 1.132 in order to traverse the 102 and 103 rejections based on Rawlings et al. and Rawlings et al. in view of Ward, respectively.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. The 102 (b) rejections based on Rawlings et al. of the Office action of paper no. 8, mailed 10/12/01 are maintained and incorporated herein by reference.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. The 103(a) rejections based on Rawlings et al. in view of Ward of the Office action of paper no. 8, mailed 10/12/01 are maintained and incorporated herein by reference.

Response to Arguments

9. Applicant's arguments filed 3/25/02 have been fully considered but they are not persuasive. Specifically, the applicant fails to state in the specification and claims anything that would chemically or physically alter the disclosed absorbent foam material making it substantially nonswellable and different from the similarly disclosed foams of Rawlings et al.

Since Rawlings et al. disclose the same foam material as that of the instant invention, the examiner can ***only*** assume that the foam materials of Rawlings et al. are

substantially nonswellable, have similar wet and dry MVTRs, would absorb similar amounts of NaCl, and would have similar increases in volume.

It must be noted, tha the examiner acknowledges the fact that Rawlings et al. disclose additional foams not disclosed by the instant invention, for example, HYPOL 2000 and HYPOL 2001, which according to the applicant have swell values of 60% and 99%, respectively. However, this does not negate the fact that the oter disclosed foams of Rawlings et al., which are similarly disclosed by the applicant, must perform the same since there is no disclosed difference.

The examiner again reiterates that there is nothing in the specification or in the claims that chemically or physically alters the disclosed foams of the instant invention making them different from the similarly disclosed foams of Rawlings et al.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.3590 for regular communications and 703.305.3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.



Kim M. Lewis
Primary Examiner
Art Unit 3761

kml
April 29, 2002